

OCT 25 2006

BEFORE THE FEDERAL ELECTION COMMISSION

SECRET

In the Matter of

Stephen Adams

OCT 25 A 10 23

MUR 5549

SENSITIVE

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED

Find probable cause to believe that Stephen Adams violated 2 U S C §§ 434(g)(2)(A) and 441d(a)(3)

II. BACKGROUND

Stephen Adams spent \$1 million on billboards expressly advocating the reelection of President Bush and Vice President Cheney. He did not file an independent expenditure report with the Commission until nearly seven weeks after the due date. At first, the billboards also lacked proper disclaimers.

The Commission found reason to believe that Stephen Adams violated 2 U S C § 434(g)(2)(A) by failing to file timely a report of his independent expenditures and 2 U S C § 441d(a)(3) by failing to initially include proper disclaimers on the billboards.

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In his Response to the Probable Cause Brief ("Adams Brief"), Adams does not contest that he violated the law Adams Brief at 1, 15

III. DISCUSSION

A. There is Probable Cause to Believe Adams Violated the Act

In his responsive brief, Adams admits he "inadvertently committed technical" violations of the provisions in issue Adams Brief at 1. Although his brief addresses advice of counsel, in view of his admission of the violations, the absence of any knowing and willful findings, and his current request that the Commission exercise its prosecutorial discretion, Adams Brief at 14, we understand his arguments to go entirely to mitigation. We do not understand him to present a formal "reliance on advice of counsel" defense to liability, nor as we discuss below, would he be

1 able to do so since he himself was not a party to an attorney-client relationship and he has not
2 specifically shown that that all pertinent facts were fully disclosed on his behalf to an expert¹
3 Accordingly, we recommend that the Commission find probable cause to believe that Stephen
4 Adams violated 2 U S C §§ 434(g)(2)(A) and 441d(a)(3)

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17 **V. GENERAL COUNSEL'S RECOMMENDATIONS**


18 1 Find probable cause to believe that Stephen Adams violated 2 U S C
19 §§ 434(g)(2)(A) and 441d(a)(3)

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3 Approve the appropriate letter

10/24/06
Date


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